

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRAIG R. JALBERT, Liquidating Trustee

Plaintiff,

v.

Civil No. 04-11349-RGS

WAYNE A. RICHARD,

Defendant.

JOINT MOTION TO CONTINUE TRIAL

Plaintiff, Craig R. Jalbert, Liquidating Trustee (“*Plaintiff*” or “*Liquidating Trustee*”) and Defendant Wayne Richard (“*Mr. Richard*”), by their undersigned counsel, jointly move this Honorable Court to reschedule the trial currently scheduled for November 6, 2006, and to continue all related pretrial deadlines, including the October 31, 2006 deadline for filing a final pretrial order, for 90 days. As reasons therefor, the parties state as follows:

1. On July 12, 2006, the Liquidating Trustee filed his Motion to be Substituted as Plaintiff in this action, which was allowed by this Court on July 18, 2006.
2. As set forth in that motion, the Liquidating Trustee’s interest in this proceeding arises out of his appointment pursuant to a certain Chapter 11 plan of reorganization of Richard-James, Incorporated and affiliated companies that was confirmed by U.S. Bankruptcy Court in the District of Massachusetts on June 13, 2006, and which became effective on June 27, 2006. Under the terms of that plan, the claims in this action originally brought by Dr. Norman Orentreich were deemed assigned to the Liquidating Trustee. The Liquidating Trustee is

responsible for liquidating the assets of the Liquidating Trust, including the claims in this action, for the benefit of creditors of the Richard-James entities.

3. Since his substitution as the Plaintiff, the Liquidating Trustee and Mr. Richard, through their counsel, have been engaged in global settlement negotiations. The parties have reached recently an agreement in principle as to a resolution of the claims at issue in this proceeding, as well as certain other unresolved claims between the parties at issue in the bankruptcy proceeding. Under the terms of the confirmed plan of reorganization and the Bankruptcy Code, this settlement requires notice to creditors and approval by the Bankruptcy Court.

4. The parties require additional time to fully document the settlement and also to seek any approval of the terms of agreement by the Bankruptcy Court.

5. In light of the agreement in principle of the settlement of their disputes, the parties are requesting that the Court reschedule the trial currently scheduled for November 6, 2006, and also continue for 90 days all related pretrial deadlines, including the deadline for filing the final pretrial order, which is October 31, 2006.

6. This Motion is not filed for purposes of delay, and extending the trial deadlines to allow the parties to finalize and obtain approval of the settlement by the Bankruptcy Court is in their best interest, as well as in the best interest of the creditors of the Richard-James bankruptcy cases.

WHEREFORE, the Liquidating Trustee and Wayne Richard respectfully request that this Honorable Court grant this Motion and continue the trial currently scheduled for November 6, 2006, and all related pretrial deadlines for 90 days.

Respectfully submitted,

Plaintiff

Craig R. Jalbert,
Liquidating Trustee

By his attorneys,

/s/ Andrew Z. Schwartz
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Defendant

Wayne Richard,

By his attorneys,

/s/ M. Ellen Carpenter
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Dated: October 24, 2006

CERTIFICATE OF SERVICE

I, Brian L. Gallagher, hereby certify that on this 24th day of October 2006, I served a copy of the foregoing on the parties listed below, by ECF, or otherwise by first class mail, postage prepaid or as otherwise indicated.

/s/ Brian L. Gallagher
Brian L. Gallagher

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